United Nations A/C.6/54/SR.11

General Assembly
Fifty-fourth session
Official Records

Distr.: General
20 December 1999
English
Original: Spanish

Sixth Committee

Summary record of the 11th meeting
Held at Headquarters, New York, on Wednesday, 20 October 1999, at 10 a.m.

Chairman: Mr. Mochochoko ..... (Lesotho)

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99-81764 (E)

The meeting was called to order at 10.15 a.m.

Agenda item 158: Establishment of an international criminal court (A/54/98, PCNICC/1999/L.3/Rev.1 and L.4/Rev.1)

1. **Mr. Corell** (Under-Secretary-General for Legal Affairs, The Legal Counsel) said that, pursuant to paragraphs 4 and 5 of General Assembly resolution 53/105, the Preparatory Commission for the International Criminal Court had met in 1999 from 16 to 26 February and from 26 July to 13 August and would meet from 29 November to 17 December. The Secretary-General had been asked to make available secretariat services. Under the terms of paragraph 2 of resolution F adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, the Secretary-General had invited to participate in the Commission representatives of States which had signed the Final Act of the Rome Conference and of other States which had been invited to participate in the Conference. Pursuant to paragraph 6 of General Assembly resolution 53/105, the Secretary-General had also invited as observers to the Preparatory Commission representatives of organizations and other entities that had received a standing invitation from the General Assembly to participate in the capacity of observers in its sessions and work and also representatives of interested regional, intergovernmental organizations and other interested international bodies, including the international tribunals for the former Yugoslavia and Rwanda. Pursuant to paragraph 7 of the same resolution, various non-governmental organizations had participated in the plenary Commission and other open Commission meetings.

2. He was glad to report that, notwithstanding financial constraints, the Secretariat had been able to provide the required services for the two sessions of the Preparatory Commission in February and July and was prepared to do so again during the forthcoming November-December session. Those services had included assistance to the Commission and its Bureau, as well as interpretation services and translation and reproduction of various working papers prepared by delegations and documents prepared by coordinators and the Commission. Documents PCNICC/1999/L.3/Rev.1 and L.4/Rev.1, which were available in all the official languages, detailed the proceedings of the first two sessions of the Preparatory Commission.

3. Pursuant to paragraphs 8 and 9 of resolution 53/105, the Secretary-General had expanded the mandate of the trust funds established by General Assembly resolutions 51/207 and 52/160. The trust funds currently sought to f participation of the least developed and other countries in the work of the Preparatory C Through a circular letter, the Secretary-General to the attention of States the paragraphs indica requested States interested in making financial c to either of the trust funds to contact the Legal C new contributions had been received. Nonethele for the least developed countries had continue assistance on the basis of contributions made Rome Conference and had financed the travel of delegates who had attended the first two ses Preparatory Commission. The Secretariat wa processing 21 requests for assistance for delegate developed countries who wished to attend the November-December session. No contributio received for the trust fund relating to other countries.

4. **The Chairman** invited Mr. Kirsch Chairman of the Preparatory Commissio International Criminal Court, to make a statem

5. **Mr. Kirsch** (Canada), Chairman of the Commission for the International Criminal Co the Preparatory Commission had met twice in total of five weeks and that its next session wo 29 November. It had organized its work plan in with the mandate and deadlines set out in resolut Plenipotentiary Conference, and delegations meetings between sessions. He singled out fo meeting sponsored by the Government of Fra with victims' access to the International Crimi meeting hosted by the International Institute Studies in Criminal Sciences on the subject procedure and evidence, the Intergovernment Caribbean Conference for the signature and ra the Rome Statute, hosted by the Government of T Tobago and the No Peace without Justice Four two briefing sessions on ratification and im legislation of the Rome Statute, hosted by the I Human Rights Law Institute of DePaul Uni Parliamentarians for Global Action.

6. At its first two sessions the Preparatory C had made considerable progress in the prepar Elements of Crime and the Rules of Procedure an In addition, it had decided to establish a workin the important question of the crime of Delegations had been conducting consultations w to the preparation of other instruments and issue Commission's mandate.

7. The Preparatory Commission had expected to complete its work by the end of its third session, in December 1999. Despite the tireless efforts of all the participants, however, a great deal of work remained to be done. The Preparatory Commission had to complete the drafting of the Rules of Procedure and Evidence and the Elements of Crime and to review those instruments. Accordingly, the Bureau of the Commission had concluded that, in order for the Commission to complete its work, it would need to hold two more sessions prior to 30 June 2000. At a later stage, the Preparatory Commission would have to draft the other instruments listed in resolution F and to attend to other issues within its mandate, including that set out in resolution 53/105. The Bureau considered that one additional session should be scheduled before the end of the year 2000. It was of the utmost importance that the Preparatory Commission should continue its work systematically beyond June 2000 for the purpose of addressing questions such as the crime of aggression and completing its mandate.

8. Although the working atmosphere had been excellent, the Preparatory Commission could and should improve its effectiveness. Insistence on points that were not fundamentally important but were of a technical nature had slowed down the proceedings. In future sessions delegations needed to show flexibility if timely progress was to be made.

9. Some important issues remained to be resolved. Some related to the draft instruments under consideration and others were broader in nature, such as the request of the General Assembly that ways to enhance the effectiveness and acceptance of the Court should be discussed. He expressed the hope that all delegations would keep in mind the overall objective of establishing an international criminal court which worked fairly and effectively and was widely supported.

10. He expressed his appreciation for the contributions to the trust fund established pursuant to paragraph 8 of General Assembly resolution 53/105 and the support of the International Human Rights Law Institute of DePaul University. He stressed the importance of participation by as many States as possible in the preparation of the necessary instruments for the operation of the Court.

11. **Ms. Rasi** (Finland), speaking on behalf of the European Union, the associated countries Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia, and, in addition, Iceland, said that in the Security Council debates during the past few weeks on the protection of children and civilians in armed conflict, and in the general debate of the General Assembly at its fifty-fourth session, the early establishment of the International Criminal Court had been forcefully called for. Recent events had again highlighted the urgent need to enhance respect for and implementation of international humanitarian law and human rights.

12. The International Criminal Court would be a new and powerful tool to combat and deter the most serious crimes of concern to the international community and would thereby help to create a climate of compliance with the fundamental international rules that protected human life and dignity. The provisions of the Rome Statute were clearly relevant to the type of armed conflict which had become increasingly common and in which women, children and the elderly were at greatest risk. The Statute was relevant also to the crimes committed by certain Governments.

13. The Rome Statute recognized that the primary responsibility for ensuring compliance with humanitarian and human rights law lay with States. The International Criminal Court, therefore, could serve as an incentive and a complement to national systems and step in where national systems failed to act. The Rome Statute established a delicate balance between common law and civil law traditions in criminal proceedings. The European Union underlined the importance accorded in the Statute to the rights of the accused, and welcomed the emphasis on the protection of the rights of victims.

14. The European Union was committed to maintaining the integrity of the Rome Statute and to its early entry into force. The International Criminal Court must be effective and credible, and it must operate in close relationship with the United Nations. The European Union welcomed the steady growth in the number of signatories to the Rome Statute and urged all States to sign and ratify the Statute as a matter of priority. All the States members of the European Union were signatories to the Rome Statute and were completing the necessary procedures to ratify it, a process which was expected to conclude by the end of the year 2000. Ratification of the Rome Statute and its incorporation into national law was a major and complex process. Towards that end, the European Union was prepared to share its experience and knowledge with interested States. States members of the European Union had already offered financial and technical assistance to other States and had supported a number of other initiatives promoting ratification of the Rome Statute. In that connection, the major contribution by non-governmental organizations should be recognized.

15. The States members of the European Union and the European Commission were committed to advancing international criminal justice, as they had shown by

cooperating closely with and providing assistance to the ad hoc Tribunals for Rwanda and the former Yugoslavia. The International Criminal Court would in the future be able to rely on that same cooperation and assistance.

16. Much had been accomplished at the two sessions of the Preparatory Commission during the current year, but clearly much remained to be done. During the next session of the Preparatory Commission, to be held in November and December 1999, work must be expedited so that the Court's Rules of Procedure and Evidence and the Elements of Crimes could be completed before 30 June 2000. The European Union believed that two sessions of the Preparatory Commission should be scheduled before that date and another before the end of 2000 to discuss the other matters before the Commission, including the definition of the crime of aggression. Also, inter-sessional work should be pursued, given the good results which had been achieved using that system.

17. In the course of just a few years the discussion had gone from debating the feasibility of an international criminal court to building up the technical underpinnings for that institution, a feat which would not have been possible without the extensive participation of all delegations and the cooperation and commitment of a great number of national and international institutions, non-governmental organizations and individuals. Similarly, for the Court to come into operation quickly and effectively, the widest possible support from the international community was needed. In that regard, the European Union would not stint.

18. **Ms. Flores Liera** (Mexico), speaking on behalf of the Rio Group, reaffirmed the Group's support for the establishment of the International Criminal Court. It was encouraging to see that 87 countries had signed the Rome Statute and that 4 had ratified it. It was now necessary for States to finish the process of signing and ratifying the Statute and for the Preparatory Commission to expedite its work, including completion of the Elements of Crimes and the Rules of Procedure and Evidence by June 2000 at the latest. Despite the progress made on those documents, particularly at the session on the Rules of Procedure and Evidence held at the International Institute of Higher Studies in Criminal Sciences in Siracusa, Italy, and at the Paris seminar on appeals to the Court by victims, the Preparatory Commission would need at least two sessions in the first three months of 2000 to complete them in time.

19. **Mr. Fife** (Norway) said that the adoption of the Rome Statute had been a historic event as the Statute provided for an independent, effective and credible Court and gave it a truly broad base of support. Also, for the first time written rules were available, substantially enhancing the predictability and certainty of international law. The Statute provided also for measures protecting against biased or arbitrary prosecutions and for procedural safeguards such as those for the protection of sensitive military sources. Furthermore, by complementing national judicial systems, the Court would be a safety net in cases where States did not undertake proceedings within their own jurisdictions.

20. However, much remained to be done concerning the Rules of Procedure and Evidence and the Elements of Crimes. It should not be forgotten that the final goal of the Preparatory Commission was the actual establishment of the Court, for which a sufficient number of ratifications was required. In that regard, the major pledge which the Government of Norway would make at the forthcoming International Conference of the Red Cross and Red Crescent would be early ratification of the Rome Statute.

21. **Ms. Álvarez Núñez** (Cuba) said that the instruments being negotiated in the Preparatory Commission were as important as the Rome Statute itself because without them the International Criminal Court would never be able to operate independently and impartially. She reaffirmed that for the Statute to enjoy the greatest possible degree of acceptance it was vital that in the negotiations in the Preparatory Commission account should be taken of the opinions of all States and there should be no repetition of the dubious methods of work used at the Rome Conference because of alleged time constraints.

22. The paramount priority for the Preparatory Commission was to define the crime of aggression. She therefore welcomed the decision to establish a working group for that purpose and the compilation which the Secretariat had made of the various proposals on the subject. In that connection, she suggested that the definition of the crime of aggression and its elements should be tackled first and only then should the conditions in which the Court should exercise its jurisdiction over that crime be discussed. Since the beginning of the twentieth century, a basis of rules and doctrine had been built up which would make it possible to define, legally speaking, the crime of aggression from the point of view of individual criminal liability. That basis lay, primarily, in the Charter of the United Nations, the Statute of the International Military Tribunal at Nuremberg and General Assembly resolution 3314 (XXIX) of 14 December 1974.

23. **Mr. Suh Dae-won** (Republic of Korea) said that the adoption of the Statute of the International Criminal Court represented a giant leap forward in the establishment of

justice and the protection of human rights throughout the world.

24. The work of the Preparatory Commission should be based on three considerations: firstly, it was essential that the Rules of Procedure and Evidence and the Elements of Crimes should fully respect the letter and spirit of the Rome Statute; secondly, those instruments were intended to assist the Court in interpreting and applying the Statute and to enhance its independent and effective functioning; thirdly, the decision to establish a working group on the crime of aggression at the next session of the Preparatory Commission was welcome, since that crime was the gravest of all crimes against international peace and security, as was evidenced by the history of the Republic of Korea, which had experienced it on numerous occasions.

25. However, for the time being it seemed more practical to concentrate on drafting the Rules of Procedure and Evidence and the Elements of Crimes, while proposals were being prepared for the definition and elements of the crime of aggression. The support and cooperation of the international community were essential for the early commencement of the Court's operations.

26. **Mr. Kawamura** (Japan) said that the adoption of the Rome Statute was a historic milestone on the road to the Preparatory Commission's ultimate goal of establishing an effective and credible court that could play a substantial role in the maintenance of international peace and security. However, any optimism would be premature, since the Statute would not enter into force until it had been ratified by 60 countries. Japan was studying it carefully with a view to ratifying the text.

27. With regard to the document on the elements of crimes, in the light of the principle *nullum crimen sine lege*, it was necessary to clarify as far as possible those crimes that were not defined in the Statute; moreover, the Statute should be consistent with the existing laws of armed conflict and, in that regard, it was important seriously to consider the law of naval warfare, which was neglected in the document in question.

28. The Rules of Procedure and Evidence did not pay due attention to the rights of suspects or of the accused, which were after all also fundamental human rights.

29. Once the two documents had been finalized, it would be necessary, as mentioned in resolution F of the Rome Conference, to elaborate another series of documents, such as the detailed financial regulations and rules which would be essential for the proper functioning of the Court.

30. Lastly, the International Criminal Court required the blessing of the international community as a whole and it was therefore necessary to find a formula to enable those States which had not adopted the Statute to join the other States within the actual framework of the Rome Statute, without of course reopening the debate on the Statute.

31. **Ms. Steains** (Australia), speaking on behalf of the countries of the South Pacific Forum (Federated States of Micronesia, Fiji, New Zealand, Papua New Guinea, Samoa, the Solomon Islands, Vanuatu and Australia), said that the adoption of the Rome Statute represented the commitment of the international community to defend the principles of humanitarian law and human rights in a world which would no longer tolerate violations of international law, acts of genocide or war crimes and crimes against humanity. The International Criminal Court would not only bring to justice perpetrators of the worst violations of international law but would also be an incentive to nations to honour the commitments and obligations which they had assumed in that regard.

32. The two sessions held by the Preparatory Commission in 1999 had been productive, but much remained to be done. The Sixth Committee should therefore give priority to the Preparatory Commission's work and give a strong commitment to provide it with the necessary resources. The Preparatory Commission should hold two three-week sessions and a third two-week session. Since resolution F adopted by the Conference of Plenipotentiaries required the Rules of Procedure and Evidence and the Elements of Crimes to be completed by June 2000, the Preparatory Commission should give absolute priority to the completion of that work during its first two sessions.

33. It was gratifying that 88 States had signed the Statute of the International Criminal Court; some members of the South Pacific Forum had not yet done so, but they were seriously studying their internal domestic procedures and legislation to that end. On the other hand, only four States had ratified the Statute. It should be remembered, however, that the Statute was a complex instrument which would require a whole series of legislative changes in order for countries to incorporate its obligations into their domestic law. That was true for many of the South Pacific States.

34. With a view to the ratification of the Statute, the South Pacific countries had to develop a model legislation which could be adapted to individual needs. That type of regional cooperation was still in an embryonic stage, but it would be a practical way of sharing legislative and procedural information, since those countries shared the common law tradition.

35. The adoption of the Statute of the Court represented the international community's recognition of the need to end the culture of impunity, to protect the rights of victims and to deter future perpetrators of such crimes. The most effective way to reinforce that message would be the expeditious completion of the Preparatory Commission's work and the entry into force of the Statute.

36. **Mr. Valdivieso** (Colombia) said that his delegation had participated actively in the two sessions of the Preparatory Commission held in 1999, and welcomed the fact that some of its suggestions had been incorporated in the discussion papers proposed by the coordinators of the two working groups.

37. There were two important matters related to the establishment of the International Criminal Court. The first was the protection of victims and witnesses, their participation in proceedings and reparations to victims. Although the Court had to take into account the interest of the international community in punishing the guilty, the interests of the victims could not be ignored. In that regard, the Court should take into consideration what the victim understood by "reparations". The second matter was the removal of minors from armed conflicts. Children had to be protected from the consequences of war, and the Statute of the Court should therefore in future punish the enlisting in armed forces of children between 15 and 18 years of age, as well as their participation in hostilities. Colombia's armed forces currently did not recruit minors under 18 years of age.

38. The Government of Colombia was determined to abolish impunity in cases of violations of human rights and of the norms of international humanitarian law. To that end, it was promoting a series of legislative initiatives which would enable it to apply the Rome Statute once it had been ratified. Specifically, the Government had urged approval of the new Code of Military Penal Justice, the provisions of which reflected constitutional principles in force since 1991. Under the new Code, the crimes of genocide, torture and forced disappearance would never be tried in military penal courts, by virtue of the principle existing in Colombia that no higher order could exculpate persons guilty of conduct violating human rights. The Code separated the functions of investigation and judgement from that of command, in order to guarantee impartiality and independence in the administration of justice; victims could be civil parties in military trials and were able to submit appeals, request evidence and obtain reparations and, in accordance with the provisions of article 213 of the 1991 Constitution, civilians could not be tried in military penal courts.

39. His Government was also seeking the issuance of a new Criminal Code, which would incorporate crimes against humanity and breaches of international humanitarian law, including enforced disappearance, sexual abuse and rape. It would also criminalize torture, in accordance with international law. In a second stage, the Government would seek ratification of the Statute of the International Criminal Court.

40. His delegation welcomed the decision to establish a working group on the crime of aggression at the next session of the Preparatory Commission and in view of the great difficulty of defining that crime would participate actively in the discussion. It would also continue participating in the Preparatory Commission in a cooperative spirit in order that the instruments on the Rules of Procedure and Evidence and the Elements of Crimes might be completed before June 2000.

41. **Mr. Yengejeh** (Islamic Republic of Iran) said that his country supported the Preparatory Commission in its efforts to comply fully with the mandate conferred on it by the Conference of Plenipotentiaries. According to that mandate, by the end of June 2000 the Commission was supposed to finalize the instruments on the draft Rules of Procedure and Evidence and the Elements of Crimes, and prepare proposals on the crime of aggression and its relationship with the Security Council. Furthermore, the Commission had to prepare a number of other instruments which were necessary in order to enable the Court to begin functioning.

42. In order to facilitate universal adherence to the future Court and guarantee its efficiency, the Preparatory Commission should take into account the concerns expressed by all delegations, but without departing from the spirit and letter of the Statute of the Court. Any attempt to reopen the discussion on specific subtle issues would prolong the negotiations and prevent the Commission from finalizing the instruments on the draft Rules of Procedure and Evidence and the Elements of Crimes within the scheduled time limit.

43. Although the elements of crimes was a new subject for many delegations because those elements did not exist in the criminal codes of their respective States, sufficient progress had been made in the efforts to add clarity and precision to a number of definitions contained in the Statute, such as the definition of war crimes. He expressed appreciation to the authors of the various drafts submitted to the working group, but emphasized that proposals relating to direct or indirect modification of the Statute must be considered by the review conference to be convened in accordance with article 121 of the Statute.

44. The Rules of Procedure and Evidence established a framework for conducting trial and appellate proceedings and ensured the consistency of the Court's decisions and work; they also provided guidance to the parties with regard to the proceedings. Accordingly, the Rules should be drafted very carefully and be flexible enough to permit the judges to exercise discretion when necessary; the working group responsible for their preparation would do well to draw inspiration from the experience of the international criminal tribunals for the former Yugoslavia and Rwanda.

45. He welcomed the decision to establish a working group on the definition of aggression; progress in that regard would promote the ratification of the Statute and hence its universal acceptance. In that regard, General Assembly resolution 3314 (XXIX) of 14 December 1974 should serve as a basis for discussion and for the formulation of the final text. The Preparatory Commission had to provide proposals under which the International Criminal Court would exercise its jurisdiction with regard to that crime, seeking to strike a balance between the responsibilities of the Security Council and the independence of the Court. Moreover, it must be provided clearly that the Court would render judgement independently when acts of aggression were committed, should the Security Council fail to fulfil its mandate within a specific period of time.

46. He expressed the hope that all interested delegations would join in the deliberations on that issue in a spirit of cooperation and help the Commission to fulfil its mandate.

47. **Mr. Ka** (Senegal) said that by adopting the Rome Statute the international community had laid the foundations for the creation of a permanent system of criminal justice based on universally recognized principles and values. His country had always supported, at the highest political level, the establishment of the Court, and in accordance with that commitment had signed the Rome Statute and been the first State to ratify it. However, much remained to be done before the final objective was attained, as was demonstrated by the difficult negotiations in the Preparatory Commission.

48. The International Criminal Court, by virtue of its structure and operating mechanisms, was the result of a formula blending the legal systems of various States which could not have been achieved without an open and pragmatic approach. His delegation reaffirmed the importance of ensuring the victims' participation in the Court's proceedings and the rights of the defence.

49. With regard to the Rules of Procedure and Evidence, his delegation considered that no limitations should be imposed on the judges that might paralyse the functioning of the Court. The judges should be allowed a margin of discretion in analysing the facts and interpreting the rules of law.

50. With regard to the elements of crimes, he welcomed the consensus achieved in the consultations in the Preparatory Commission on the definition of the crime of aggression. It was to be hoped that substantive negotiations on that important issue would begin at the third session of the Commission.

51. His delegation was convinced that, despite the remaining obstacles, great progress had already been made towards the establishment of the International Criminal Court. The historic mandate adopted in Rome was binding on all: there was no alternative but to continue to work.

52. **Mr. Belinga-Eboutou** (Cameroon) said that the adoption of the Statute of the International Criminal Court had awakened great hopes in the States Members of the United Nations. If those hopes were to be realized, all States must adhere to the Statute, so as to protect the innumerable innocent men, women and children whose right to life was threatened by war, dictatorships, religious fundamentalism, nationalism and other acts of violence.

53. The Preparatory Commission had been established to resolve questions relating to the functioning of the Court, in accordance with resolution F adopted by the Conference of Plenipotentiaries. At its first and second sessions, the Commission had dealt with the instruments on the Rules of Procedure and Evidence, and on the Elements of Crimes, and with the definition of the crime of aggression.

54. With regard to the Rules of Procedure and Evidence, he praised the equality of the rules in the papers prepared by the coordinators. In that regard, Cameroon encouraged the Preparatory Commission to prepare rules that would be easy to apply and could be accepted without discussion. Furthermore, the necessary procedural guarantees must be recognized. All of those goals could be achieved if Member States demonstrated genuine political will, which would in turn promote consensus.

55. With regard to the instrument on Elements of Crimes, it was necessary to formulate definitions consistent with the Statute, which struck a delicate balance between various positions, and to take existing humanitarian law into account.

56. The task of defining the crime of aggression was very difficult but not impossible, as evidenced by the proposals arising from General Assembly resolution 3314 (XXIX) of 14 December 1974. His Government's proposal (A/CONF.183/C.1/L.39) would establish the competence of the Court to hear cases involving the crime of aggression,

without prejudice to the powers conferred on the Security Council under Chapter VII of the Charter of the United Nations. His delegation understood that relations between the International Criminal Court and the Security Council should be analysed from the point of view of cooperation and complementarity; the Court would need to rely on the Council to carry out many of its functions, while the Security Council would have to request the intervention of the Court in order to restore justice and peace. The Security Council would see to the responsibility of States and the International Criminal Court would see to the responsibility of physical persons who initiated, planned, prepared, ordered or launched acts of aggression.

57. His delegation wished to emphasize the importance which it attached to the principle of legal security, which was the reason why the provisions concerning trials must be clear and precise, without prejudice to measures designed to punish crimes. On the other hand, the Court's power to interpret must be retained, since it would turn into an automatic sentencing body if the characterization of the crimes was too detailed.

58. In his view, the international community must achieve ratification of the Statute of the Court by all States. He was concerned about allowing States to revise the content of the Statute, since that could delay the ratification process, as some States would be reluctant to ratify a text that was not final. His delegation would therefore like the United Nations Legal Counsel to make the necessary final basic revisions.

59. **Mr. Tarabrin** (Russian Federation) said that his delegation agreed that a permanent international judicial organ should be established to try persons responsible for the most serious crimes. That body would complement the system for the maintenance of international peace and security established under the Charter of the United Nations. In that regard, it should be noted that the process of establishing the International Criminal Court was gaining momentum, as attested by the growing number of States that had affirmed and ratified the Statute as well as by the nature and direction of the activities of the Preparatory Commission.

60. In the view of his Government, which had voted in favour of the Statute along with 119 other States at the Rome Conference, that instrument contained a set of fundamental elements that would allow the future Court to contribute to the realization of the purposes and principles of the Charter of the United Nations. In that regard, the Russian Federation was satisfied with the work of the Preparatory Commission, whose documents reflected the provisions of the Rome Statute. If the Preparatory Commission continued to take that approach, the Statute was sure to be a truly universal instrument on the basis of which the International Criminal Court could do effective work.

61. The definition of the crime of aggression, an issue which the Preparatory Commission would take up during its next session was of primordial importance. That crime consisted of an act of aggression committed by a State which violated international peace and security. According to the Charter of the United Nations, the Security Council had a primary responsibility for the maintenance of international peace and security, and was therefore empowered to determine whether an act of aggression had been committed. Once it was determined that an act of that type had been committed, the International Criminal Court would be called on to intervene. The powers of the Security Council would thus be unimpaired; otherwise there could be unforeseeable consequences.

62. Despite the complicated questions raised during discussions about the Elements of Crimes and the Rules of Procedure and Evidence, the work on the draft documents might well be concluded by June 2000, at the latest. It was extremely important that the Elements of Crimes should be in strict accordance with the Rome Statute and contemporary international law, and should contain no internal contradictions. They would thus constitute an effective instrument of criminal justice. In general, the draft Elements adopted by the Preparatory Commission on first reading seemed to meet those requirements. At the same time, a number of outstanding issues remained, including a definition of the objective aspect of the crimes that would fall within the jurisdiction of the International Criminal Court. The discussion of that issue, which had begun during the second session of the Preparatory Commission, should consequently be continued.

63. The discussion of the Rules of Procedure and Evidence had been productive, and the working groups had made great efforts to advance preparatory work on the relevant drafts. In addition, the members of the Preparatory Commission had endeavoured to ensure that the Rules of Procedure and Evidence maintained an optimal balance between the procedural norms of the major legal systems of the world.

64. The adoption of the Rome Statute and the work subsequently done demonstrated the existence of a consensus among States on the need to establish the International Criminal Court so that the system for the maintenance of international peace and security could function in an effective manner.

65. **Mr. Jacovides** (Cyprus) said that his Government associated itself with the position of the European Union,

and that he would confine his statement to certain aspects of the topic having particular interest. Cyprus, which had been a victim of aggression, military occupation, colonization of the occupied area, and destruction of its cultural heritage by the occupying power, had been one of the first to promote the establishment of international criminal jurisdiction. Within the context of the Code of Crimes against the Peace and Security of Mankind, Cyprus had in the Sixth Committee, the International Law Commission and other forums advocated the establishment of a permanent international criminal court, at a time when that idea had been considered unrealistic or inappropriate. At the Commonwealth Heads of Government Meeting, held in Nicosia in 1993, the President of Cyprus had proposed the establishment of a permanent international criminal court, and had consistently advocated that proposal before the General Assembly. Although Cyprus had favoured a court with more comprehensive jurisdiction and powers, it had signed the Statute of the International Criminal Court adopted at the Rome Conference and intended to ratify it at the earliest possible time.

66. His delegation shared the view that the Preparatory Commission should hold two three-week sessions before 30 June 2000, and should hold subsequent sessions to tackle other items on its agenda, including the definition of the crime of aggression, an essential element of the jurisdiction of the Court.

67. His delegation was prepared to cooperate with all delegations with a view to reaching a common position on the elements of crimes, and endorsed the view of the European Union that the elements of crimes should be elaborated in a manner that fully respected the letter and spirit of the balanced provisions of the Rome Statute.

68. His Government was anxious that the International Criminal Court should be established and fully functional at the earliest possible time, and expressed the hope that it would be possible to secure the support and participation of all States to that end.

The meeting rose at 12.35 p.m.